

Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANK F. COLACURCIO, SR., *et al.*,

Defendant.

NO. MS08-87RSM

PRELIMINARY INJUNCTION

THIS MATTER having come before this Court on motion of the United States of America for a Preliminary Injunction, pursuant to Title 18, United States Code, Section 1963(d)(1)(B), to enjoin, restrain, and prohibit Frank Francis Colacurcio Sr., Frank Francis Colacurcio Jr., Leroy Richard Christiansen, John Gilbert Conte, Steven Michael Fueston, David Carl Ebert, Phillip McKibben, Dean Reiber, Talents West Inc., Talents West II LLC, Accurate Bookkeeping Service Inc., D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM MR RM Corporation, Club 21 LLC, d/b/a Sugar's, LLC Everett I, P.D. & M.K. I LLC, d/b/a Honey's, LLC Foxes II, d/b/a Fox's, and any of their agents, nominees, or anyone acting at their direction or on their behalf, from disposing of, encumbering, diminishing or wasting certain real properties subject to forfeiture pursuant to 18 U.S.C. §1963(a); and after the hearing held on June 19, 2008, on the United States' request to enter a Preliminary Injunction pursuant to 18 U.S.C. §1963(d)(1)(B), with respect to the real properties described in Attachment A, hearing the arguments of the

parties and reviewing the Temporary Restraining Order Application, the Affidavit of FBI Special Agent Cory Cote excluding Appendix A thereto which remains under seal, the Affidavit of IRS Special Agent Eric Mooshegian, and being otherwise fully advised, the Court finds that:

There is a substantial probability that, in the event of the conviction under 18 U.S.C. § 1962 of Frank Francis Colacurcio Sr., Frank Francis Colacurcio Jr., Leroy Richard Christiansen, John Gilbert Conte, Steven Michael Fueston, David Carl Ebert, Talents West Inc., Talents West II LLC, Accurate Bookkeeping Service Inc., D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM MR RM Corporation, Club 21 LLC, d/b/a Sugar's, LLC Everett I, P.D. & M.K. I LLC, d/b/a Honey's, and/or LLC Foxes II, d/b/a Fox's, the United States will prevail on the issue of the forfeiture of the real properties described in Attachment A under 18 U.S.C. §1963(a), that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture, and that the need to preserve the availability of the property through the entry of the Preliminary Injunction outweighs the hardship on any party against whom it is entered.

THEREFORE, IT IS HEREBY ORDERED AND DECLARED THAT:

1. Frank Francis Colacurcio Sr., Frank Francis Colacurcio Jr., Leroy Richard Christiansen, John Gilbert Conte, Steven Michael Fueston, David Carl Ebert, Phillip McKibben, Dean Reiber, Talents West Inc., Talents West II LLC, Accurate Bookkeeping Service Inc., D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM MR RM Corporation, Club 21 LLC, d/b/a Sugar's, LLC Everett I, P.D. & M.K. I LLC, d/b/a Honey's, LLC Foxes II, d/b/a Fox's, their agents, servants, employees, successors in interest, attorneys, family members, and those persons in active concert or participation with them, are hereby restrained, without prior approval of the Court and notice to the United States and an opportunity for the United States to be heard, from taking any action: (a) to alienate, dissipate, transfer, sell, assign, pledge, encumber, waste or dispose of, in any manner, directly or indirectly; (b) to cause to be alienated, dissipated, transferred, sold, assigned,

1 leased, pledged, encumbered, wasted, or disposed of in any manner; or (c) to take, or
2 cause to be taken, any action which could have the effect of depreciating, damaging, or in
3 any way diminishing the value or marketability of any of the real properties described in
4 Attachment A to this Injunction.

5 2. If any of the real properties described in Attachment A have been
6 transferred, sold, or encumbered since March 1, 2008, Frank Francis Colacurcio Sr.,
7 Frank Francis Colacurcio Jr., Leroy Richard Christiansen, John Gilbert Conte, Steven
8 Michael Fueston, David Carl Ebert, Phillip McKibben, Dean Reiber, Talents West Inc.,
9 Talents West II LLC, Accurate Bookkeeping Service Inc., D.C.E. Inc., LLC Lake City,
10 d/b/a Rick's, MM MR RM Corporation, Club 21 LLC, d/b/a Sugar's, LLC Everett I, P.D.
11 & M.K. I LLC, d/b/a Honey's, and LLC Foxes II, d/b/a Fox's shall account to the Court
12 for the disposition and location of the proceeds of such action.

13 3. Frank Francis Colacurcio Sr., Frank Francis Colacurcio Jr., Leroy Richard
14 Christiansen, John Gilbert Conte, Steven Michael Fueston, David Carl Ebert, Phillip
15 McKibben, Dean Reiber, Talents West Inc., Talents West II LLC, Accurate Bookkeeping
16 Service Inc., D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM MR RM Corporation, Club
17 21 LLC, d/b/a Sugar's, LLC Everett I, P.D. & M.K. I LLC, d/b/a Honey's, and LLC
18 Foxes II, d/b/a Fox's shall maintain the present condition of the real properties described
19 in Attachment A, including timely payment of all mortgage or other payments on
20 indebtedness secured by the properties, and payment of all insurance, utilities, taxes and
21 assessments due, until further order of the Court, and to provide certification of such to
22 the United States within forty-eight hours of receiving a request for the same.

23 4. This Injunction shall be binding upon the successor and assigns of each of
24 the parties named herein, and no such party may assign any interest covered by this
25 Injunction without the prior written consent of this Court, after notice to the United States
26 Attorney and the opportunity to be heard.

27 5. Nothing in this Injunction shall be held to excuse compliance by Frank
28 Francis Colacurcio Sr., Frank Francis Colacurcio Jr., Leroy Richard Christiansen, John

1 Gilbert Conte, Steven Michael Fueston, David Carl Ebert, Phillip McKibben, Dean
 2 Reiber, Talents West Inc., Talents West II LLC, Accurate Bookkeeping Service Inc.,
 3 D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM MR RM Corporation, Club 21 LLC, d/b/a
 4 Sugar's, LLC Everett I, P.D. & M.K. I LLC, d/b/a Honey's, and LLC Foxes II, d/b/a
 5 Fox's with any and all applicable federal, state and local laws.

6 6. The United States may request that the Court modify this Injunction if it
 7 becomes necessary to protect the government's interest in the real properties described in
 8 Attachment A.

9 7. The United States Marshal's Service shall be allowed access to the real
 10 properties described in Attachment A, for the purpose of ascertaining the condition and
 11 value of the properties.

12 8. The United States shall take all steps necessary to cause a copy of this
 13 Injunction, together with a notice of *lis pendens*, to be filed against each of the real
 14 properties described in Attachment A, in the county land records where the real property
 15 is located.

16 9. The United States Attorney shall serve a certified copy of this Injunction on
 17 Frank Francis Colacurcio Sr., Frank Francis Colacurcio Jr., Leroy Richard Christiansen,
 18 John Gilbert Conte, Steven Michael Fueston, David Carl Ebert, Phillip McKibben, Dean
 19 Reiber, Talents West Inc., Talents West II LLC, Accurate Bookkeeping Service Inc.,
 20 D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM MR RM Corporation, Club 21 LLC, d/b/a
 21 Sugar's, LLC Everett I, P.D. & M.K. I LLC, d/b/a Honey's, and LLC Foxes II, d/b/a
 22 Fox's. Service shall be effected by hand delivery where possible, or by overnight express
 23 service or by certified mail.

24 10. The United States Attorney also shall serve a certified copy of this
 25 Injunction on the Bank of America and Victor Ruscigno, by certified mail, by facsimile,
 26 or by hand delivery. Bank of America, Victor Ruscigno, and any other financial
 27 institutions, entities, or individuals holding liens or mortgages on, or any other security
 28 interest in, the real properties described in Attachment A shall respond promptly to

1 requests by the United States for information on origin, payment history, financial and
2 loan documents, and the current status of any liens, mortgages, or security interests.

3 11. This Injunction shall remain in effect for a period of ninety days unless
4 extended by the Court for good cause shown, or until, upon notice to the United States
5 and an opportunity to be heard, the Court makes modification of the Injunction as appears
6 necessary in the interests of justice and consistent with the purposes of Title 18, United
7 States Code, Section 1963(d)(1), or until an indictment or information described in Title
8 18, United States Code, Section 1963(d)(1)(A) has been filed.

9 12. It is further ORDERED that Frank Francis Colacurcio Sr., Frank Francis
10 Colacurcio Jr., Leroy Richard Christiansen, John Gilbert Conte, Steven Michael Fueston,
11 David Carl Ebert, Phillip McKibben, Dean Reiber, Talents West Inc., Talents West II
12 LLC, Accurate Bookkeeping Service Inc., D.C.E. Inc., LLC Lake City, d/b/a Rick's, MM
13 MR RM Corporation, Club 21 LLC, d/b/a Sugar's, LLC Everett I, P.D. & M.K. I LLC,
14 d/b/a Honey's, and LLC Foxes II, d/b/a Fox's shall be permitted to execute a satisfactory
15 performance bond, pursuant to 18 U.S.C. § 1963(d)(1), as an alternative to the restraint of
16 the real properties described in Attachment A. After notice to the United States and an
17 opportunity to be heard, the Court shall determine whether any proposed bond is a
18 satisfactory performance bond. This Injunction shall be in effect until such time as the
19 Court determines that the proffered bond is satisfactory.

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